

**MINUTES OF A PUBLIC HEARING CONDUCTED BY THE ST. LOUIS
COUNTY BOARD OF ADJUSTMENT HELD **TUESDAY, NOVEMBER 15,**
2011, NORTHLAND OFFICE CENTER, VIRGINIA, MN, 9:00 a.m. – 10:00 a.m.**

Board of Adjustment members in attendance:

Diana Werschay – Chair
Tom Coombe
Steve Filipovich
Kurt Johnson
David Peterson
David Pollock

Decision/Minutes for the following public hearing matters are attached:

NEW BUSINESS:

- A. Christopher Raps, S10, T63N, R18W (Beatty)
- B. David Prudhomme, S12, T62N, R12W (Morse)
- C. Bill Ferguson, S15, T63N, R13W (Morse)
- D. Debra Doughty, S36, T58N, R16W (Biwabik)
- E. Eric Webster, S20, T63N, R13W (Morse)

OTHER BUSINESS:

Motion by Peterson/Johnson to approve the minutes of the October 18, 2011 meeting.

In favor: Werschay, Coombe, Johnson, Peterson, Pollock – 5

Opposed: None - 0

Abstained: Filipovich – 1 (not present at the October meeting)

Motion carried 5-0-1

PUBLIC HEARING:

The first hearing item was for Christopher Raps, S10, T63N, R18W (Beatty), at 3115 Raps Point Trail, Cook, MN. *Mark Lindhorst*, St. Louis County Planner, reviewed the staff report as follows:

- A. The parcel in question was created in 2006.
- B. The parcel meets zoning requirements but does not meet the requirements of a parcel without platting.
- C. The parcel was created from an old family estate in 1992 that was never recorded. Mr. Raps recorded the parcel in 2001.
- D. A land use permit for a cabin and a septic permit were both issued in 2006.
- E. The Planning Commission recommended that the Board of Adjustment approve this variance at the November 10, 2011 hearing.

Mark Lindhorst reviewed staff's conclusions as follows:

- 1. The request of the applicant is not substantial because the applicant is asking for a variance to allow an after-the-fact creation of a 2.34 acre parcel where St. Louis County

Ordinance 33 requires subdivision platting for the creation of two lots along a private driveway that do not meet 2.5 acres.

2. The variance will not have an effect on government services because the parcel contains a permitted home and septic system.
3. If approved, the variance would not change the character of the neighborhood or be detrimental to the neighborhood because the size and existing development is similar to the rest of the parcels in the area.
4. An alternative that could be used to eliminate the need for variance or decrease the extent of the variance being requested is to apply for subdivision platting. However, the applicant received a land use permit and septic permit for development in 2006. These permits were issued based on the best information available at the time for determining subdivision requirements.
5. The practical difficulty occurred when development was permitted in 2006.
6. The lot was created in 2001 and received permits in 2006.
7. There are smaller parcels located to the south within the Da Bi Na Wa plat.
8. The county would not benefit the enforcement of the ordinance if compliance were required because St. Louis County approved the development on the parcels when permits were issued in 2006.
9. The lot creation was not intentional. The landowner applied for and received permits allowing for development to occur.

Mark Lindhorst noted no items of correspondence.

Mark St. Lawrence, Environmental Services, via report, stated that the Raps cabin is served by a 1,500 gallon septic tank, a 1,500 gallon pump tank and ECOFLO intermittent/single pass system consisting of one peat filter and a 15 foot by 22 foot by 8 inch rockbed. The system is on an operating permit. Replacement area for a type 4 system is identified and should be reserved.

Vicki Shelde, BIC Reality, spoke on behalf of the applicant. She stated that the Raps have the parcel up for sale. It was at this time that they found out that the parcel did not meet requirements.

No audience members spoke regarding this proposal.

DECISION

Motion by Coombe/Peterson to approve a variance based on the aforementioned conclusions of staff, to allow the creation of a 2.34 acre parcel without platting.

In Favor: Coombe, Filipovich, Johnson, Peterson, Pollock, Werschay – 6

Opposed: None – 0

Motion carried 6-0

The second hearing item was for David Prudhomme, S12, T62N, R12W (Morse), at 9655 Wyoming Terrace, Bloomington, MN. *Mark Lindhorst*, St. Louis County Planner, reviewed the staff report as follows:

- A. The request is to allow an L-shaped addition that exceeds 35 percent of the original ground floor space.
- B. The existing structure does not meet the 100 foot shoreline setback.
- C. The existing structure is closer to the lake than the two proposed additions which does not increase the nonconformity.
- D. The cabin is well-screened from the lake.
- E. There is existing slope towards the lake.

Mark Lindhorst reviewed staff's conclusions as follows:

- 1. The request of the applicant is substantial because the applicant is asking for a variance to increase the size of an L-shaped addition by 234 square feet.
- 2. The variance will not have an effect on government services because the lot is already developed with access to a public road.
- 3. If approved, the variance would not change the character of the neighborhood or be detrimental to the neighborhood because the structure is well screened from the lake and is consistent with the size of structures in the area.
- 4. An alternative that could be used to eliminate the need for variance or decrease the extent of the variance being requested is to move the location of the addition to the rear allowing for an addition size of 388 square feet. However, this may require that the septic tank be moved to meet setbacks. In addition, the structure is located on a point surrounded by water. Based on setbacks, the only way that the applicant could meet the required size is to move the structure back or add a second story.
- 5. The practical difficulty occurred when the lot was developed.

Mark Lindhorst noted one item of correspondence from the Town of Morse Land Use Committee in support of the variance request.

Mark St. Lawrence, Environmental Services, via report, stated that the Prudhomme cabin is served by a 1,000 gallon septic tank with a 500 gallon pump chamber and gravity mound with a 10 foot by 30 foot rock bed and 30 inches of approved sand under the rock bed. The applicant is proposing to expand usage from a two-bedroom seasonal dwelling to a two-bedroom year-round structure. The existing sewage treatment system is sized to accommodate year-round usage.

David Prudhomme, the applicant, stated that they are not proposing year-round use and he had nothing further to add.

Board member *Filipovich* asked the applicant if they are adding a bedroom to the existing cabin. Mr. *Prudhomme* stated that they are adding one bedroom and a screen porch and that there is currently one bedroom in the existing cabin.

DECISION

Motion by Peterson/Filipovich to approve a variance based on the aforementioned conclusions of staff, to allow a 505 square foot L-shaped addition to a principal structure. The following conditions shall apply:

- 1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.

2. The shore protection zone shall be preserved in a natural state and screening shall be retained.

In Favor: Coombe, Filipovich, Johnson, Peterson, Pollock, Werschay – 6

Opposed: None – 0

Motion carried 6-0

The third hearing item was for Bill Ferguson, S15, T63N, R13W (Morse), at 4355 South High Street, Englewood, CO. *Mark Lindhorst*, St. Louis County Planner, reviewed the staff report as follows:

- A. The request is to build a new cabin 51 feet from the shore of Burntside Lake.
- B. The property is located on an island that is surrounded by Federal land and other islands with cabins on them. The new cabin would be facing Federal land.
- C. There is an approved septic permit for the parcel.
- D. There is a flat, rocky area that is suitable for building.
- E. The applicant has provided a schematic of what the cabin will look like and what Burntside mitigation points will be used.

Mark Lindhorst reviewed staff's conclusions as follows:

1. The request of the applicant is substantial because the applicant is asking for a variance of 51 feet from the lakeshore where St. Louis County Ordinance 46 requires 100 feet.
2. The variance will not have an effect on government services because the proposed structure will be serviced by a permitted septic system.
3. If approved, the variance would not change the character of the neighborhood or be detrimental to the neighborhood because the structure will be well screened from the water, surrounding islands are developed and the property to the north is all undeveloped Federal land.
4. The dimensions of the island, the location of the septic system and the septic expansion area limit a structure from meeting the required lake setback or increasing the setback.
5. The lot configuration and septic area create practical difficulty in meeting the required lake setback.

Mark Lindhorst noted one item of correspondence from the Town of Morse Land Use Committee in support of this variance proposal.

Mark St. Lawrence, Environmental Services, via report, stated that Mr. Ferguson is proposing to service his new cabin by installing a 1,000 gallon septic tank, a 1,000 gallon pump tank and BORD NA MONA intermittent/single pass system consisting of three peat filters and a ten foot by 28 foot by six inch rock bed. The system will be placed on an operating permit. System replacement area has been identified and should be reserved.

Bill Ferguson, the applicant, stated he had nothing to add.

DECISION

Motion by Coombe/Peterson to approve a variance based on the aforementioned conclusions of staff for a cabin to be constructed 51 feet from the shoreline of Burntside Lake. The following conditions shall apply:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. Required mitigation points shall be implemented.
3. The shore protection zone shall be preserved in a natural state and screening shall be retained.

In Favor: Coombe, Filipovich, Johnson, Peterson, Pollock, Werschay – 6

Opposed: None – 0

Motion carried 6-0

The fourth hearing item was for Debra Doughty, S36, T58N, R16W (Biwabik), at 523 Seville Avenue, Buhl, MN. *Jenny Bourbonais*, St. Louis County Planner, reviewed the staff report as follows.

- A. The property is located on Silver Lake, a Natural Environment lake.
- B. The request is for an addition to an existing nonconforming principal structure.
- C. There is little development on the applicant's side of Silver Lake.
- D. The existing parcels in the plat are part of an old Department of Natural Resources (DNR) lease.
- E. Existing development is similar around Silver Lake.

Jenny Bourbonais reviewed staff's conclusions as follows:

1. The request of the applicant is substantial because the applicant is asking for variances to allow additions to a nonconforming principal structure where St. Louis County Ordinance 46 does not allow additions to structures that do not meet lake and road setbacks. However, it is not possible for a structure to meet these setbacks due to the depth of the lot.
2. The variance will not have an effect on government services because this is an established lot with platted road access and an approved septic system.
3. If approved, the variance would not change the character of the neighborhood or be detrimental to the neighborhood because the other three lots in this plat have similar lot configurations and circumstances that create nonconforming structures. In addition, there is little potential for more development in this area of the lake.
4. The only alternative that could be used to eliminate the need for variance or decrease the extent of the variance being requested is to add a second story. Because of the existing layout of the structure, this would not be sensible. Also, a second story addition would be more obtrusive if viewed from the lake than an addition to the side or rear. Any other development on the subject property would require a variance of some sort.
5. The practical difficulty occurred because the lot is an old DNR lease that was platted without enough lot depth to meet lake or road setbacks.

Jenny Bourbonais noted one item of correspondence from Amy Loiselle, DNR, regarding the Ordinary High Water Mark.

Mark St. Lawrence, Environmental Services, via report, stated that the Doughty cabin is served by a 1,000 gallon holding tank with a water meter that will be installed in the spring 2012. The system is approved for seasonal use and was placed on an operating permit. No septic field area has been identified on the property that meets road, well and shoreline setbacks.

Debra Doughty, the applicant, stated that she just purchased the property at the end of September. She has no plans to remove mature trees or vegetation.

Board member *Filipovich* asked if the property was being used seasonally. *Jenny Bourbonais* stated that it was.

DECISION

Motion by Peterson/Coombe to approve a variance based on the aforementioned conclusions of staff for a 14 by 16 foot addition to the side of the existing structure and a 14 by 20 foot addition to the rear of a nonconforming principal structure located 80 feet from the shoreline, 32 feet from the road right-of-way and 39 feet from the road centerline. The following conditions shall apply:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. A plan to enhance vegetation and protect the shore impact zone shall be submitted and approved by the county.

In Favor: Coombe, Filipovich, Johnson, Peterson, Pollock, Werschay – 6

Opposed: None – 0

Motion carried 6-0

The fifth hearing item was for Eric Webster and Jill McElmurry, S20, T63N, R13W (Morse), at 220 Vineyard Road NW, Albuquerque, NM. *Mark St. Lawrence*, Environmental Services Department Program Administrator, reviewed the staff report as follows:

- A. The property is located on an island on Burntside Lake.
- B. The property is approximately 1.25 acres in size.
- C. There are steep banks on the island and approximately 30 percent slope at the shoreline.
- D. There is an existing cabin that was approved by variance on August 14, 1970.
- E. There is an existing privy that does not meet shoreline setbacks.
- F. There is good vegetative screening to the lake.

Mark St. Lawrence reviewed staff's conclusions as follows:

1. Two separate evaluations of the property by certified designers concluded that the property would be best served by the installation of a peat filter septic system to treat both septic and greywater.
2. St. Louis County Ordinance 55 allows the use of peat filter septic systems.
3. The Environmental Services Department would oversee the peat filter system with an operating permit.
4. All but one of the neighboring property owners in this area of Burntside Lake approve of the variance request.

Mark St. Lawrence noted six items of correspondence from the Burntside Property Owners Association, John and Diane Sundell, Lawrence M. Smith, Michael and Connie Loisel and the

Town of More Land Use Committee (Eugene Zabinski and Len Cerzine) in support of this variance request and Tony Denardo against the variance request.

Eric Webster, the applicant, stated that they have a partially constructed cabin. They have cleared construction debris that had been sitting for years and plan to clear dead trees and clean up the property. They want to dispose of their wastewater legally. They considered a composting toilet as an alternative, which would leave the greywater untreated. They felt the peat filter system would be the best option. They are willing to comply with all testing, treatment and maintenance of the system.

Board member *Coombe* asked what the applicant plans to do with the existing holding tank. *Eric Webster* stated that they will abandon it.

DECISION

Motion by Coombe/Peterson to approve a variance based on the aforementioned conclusions of staff for a tank setback of 35 feet from the shoreline of Burntside Lake and a drainfield setback for pretreated effluent of 48 feet from the shoreline of Burntside Lake with the condition that the existing privy shall be properly abandoned.

In Favor: Coombe, Filipovich, Johnson, Peterson, Pollock, Werschay – 6

Opposed: None – 0

Motion carried 6-0

MOTION TO ADJOURN was made by Dave Pollock. The meeting adjourned at 10:00 am.